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**ALSTON & BIRD LLP**

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**TELECOPY****PLEASE DELIVER AS SOON AS POSSIBLE****Date:**

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Mail Stop Petition

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Guy R. Gosnell

**Message:**

In re: Jayant D. Patel, et al.  
Application No. 10/696,821, filed October 30, 2003

**Number of Pages: (including cover page)** 18**IF NOT RECEIVED PROPERLY, PLEASE NOTIFY US IMMEDIATELY AT (704) 444-1000.**

<b>USER CODE:</b>	FRICG	<b>REQUESTED BY:</b>	Gwen Frickhoeffter
<b>CLIENT/MATTER:</b>	038190/270418	<b>OPERATOR:</b>	

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Attorney's Docket No. 038190/270418

In re:	Jayant D. Patel, et al.	Confirmation No.	1290
Appl. No.:	10/696,821	Group Art Unit:	3726
Filed:	October 30, 2003	Examiner:	David P. Bryant
For:	METHOD FOR JOINING AND SEALING CONDUITS		

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

October 12, 2005

**PETITION TO REVIVE ABANDONED APPLICATION  
UNDER 37 CFR 1.137(a)**

Applicant hereby petitions to revive the above-identified application under 37 CFR § 137(a), which was unavoidably abandoned for failure to respond to an Office Action dated March 25, 2005. The statutory period for responding to the Official Action ended on June 25, 2005. A petition fee of \$500.00 should be charged to our Deposit Account No. <sup>16</sup>06-0605 pursuant to 37 CFR § 1.17(I). As the application was abandoned as a result of an error on the part of the U.S. Patent and Trademark Office (PTO), Applicant hereby also requests that the petition fee be refunded upon the granting of this Petition.

1. On March 25, 2005, the PTO issued an Office Action rejecting all of the claims under 35 U.S.C. § 102 and setting a three month shortened statutory period for response (i.e., June 25, 2005). Upon petition and with the payment of extension of time fees, the period for response could be extended up to and including September 26, 2005 (i.e., the next business day following the six-month anniversary date of Sunday, September 25, 2005).

2. On Monday, September 26, 2005, Applicant, through counsel, prepared and mailed an Amendment responsive to the Office Action to the PTO. A return postcard was also included with the Amendment. The return postcard indicated the serial number and title of the patent application, the date of filing the Amendment, i.e., September 26, 2005, and the enclosure of the Amendment, a Petition for Extension of Time and a check in the amount of \$1,020.00 to pay to extend the period for response by three months, that is, until September 26, 2005. A copy

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In re: Jayant D. Patel, et al.  
Appl. No.: 10/696,821  
Filing Date: October 30, 2003  
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of each of these documents is included at Tab 1. Both the Amendment and the Petition for Extension of Time included a Certificate of Mailing. The Certificates of Mailing were signed by Gwen Frickhoeffer certifying that the Amendment and the Petition for Extension of Time were deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 26, 2005.

3. A copy of the cancelled check evidencing payment of the fee for extending the period to respond to the Official Action until September 26, 2005 is attached at Tab 2.

4. On October 3, 2005, Applicant's counsel received the return postcard from the PTO. The return postcard bore a PTO stamp dated September 28, 2005, acknowledging receipt of the Amendment and the Petition for Extension of Time by the PTO. (See Tab 3).

5. On October 3, 2005, Applicant's counsel also received a Notice of Abandonment dated September 30, 2005. The Notice of Abandonment listed the reason for abandonment as failure to timely file a proper response to the Office Action dated March 25, 2005.

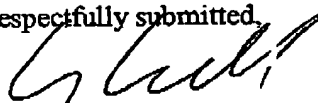
Applicant submits that the abandonment of the above-referenced patent application was unavoidable. As indicated by the Amendment, the Petition for Extension of Time and postcard (See Tabs 1 and 2), Applicant submitted a response to the Office Action on Monday, September 26, 2005, within the statutory period for response as extended pursuant to the Petition for Extension of Time. Since the postcard was stamped and returned by the PTO indicating its receipt of the Amendment and Petition for Extension of Time and since the check submitted along with the Petition for Extension of Time was cashed by the PTO, Applicant was unaware that the Amendment was not received by the Examiner until receipt of the Notice of Abandonment on October 3, 2005. Because Applicant submitted a timely response and received notification by return postcard that the Amendment was received by the PTO, and further, filed this Petition in a timely manner after receiving the Notice of Abandonment, Applicant submits

In re: Jayant D. Patel, et al.  
Appl. No.: 10/696,821  
Filing Date: October 30, 2003  
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that the entire delay from the due date of the Amendment to the filing of this Petition was **unavoidable**. As such, it is respectfully requested that the Petition to Revive be granted.

If any questions arise, however, the PTO is encouraged to contact the below-signed attorney so as to expedite consideration and granting of this Petition.

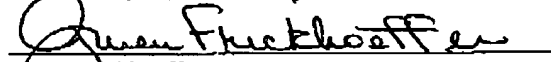
Respectfully submitted,

  
Guy R. Gosnell  
Registration No. 34,610

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (571) 273-8300 on the date shown below.

  
Gwen Frickhoeffter

October 12, 2005  
Date

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TAB 1

Attorney's Docket No. 038190/270418

PATIENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

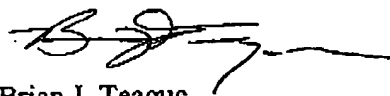
In re: Jayant D. Patel, et al. Confirmation No.: 1290  
 Application No.: 10/696,821 Group No.: 3726  
 Filed: October 30, 2003 Examiner: David P. Bryant  
 For: METHOD FOR JOINING AND SEALING CONDUITS

Mail Stop Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

## PETITION AND FEE FOR EXTENSION OF TIME 37 C.F.R. § 1.136(a)

1. This is a petition for an extension of time for a total period of three (3) months to respond to the Office Action dated March 25, 2005.
  2. Applicant is ☐ a small entity; ☒ other than a small entity.
  3. Calculation of extension fee (37 C.F.R. § 1.17(a)(1)-(a)(5)):
- | Total Months Requested                           | Fee For Other Than Small Entity | Fee for Small Entity |
|--------------------------------------------------|---------------------------------|----------------------|
| <input type="checkbox"/> one month               | \$120.00                        | \$60.00              |
| <input type="checkbox"/> two months              | \$450.00                        | \$225.00             |
| <input checked="" type="checkbox"/> three months | \$1,020.00                      | \$510.00             |
| <input type="checkbox"/> four months             | \$1,590.00                      | \$795.00             |
| <input type="checkbox"/> five months*            | \$2,160.00                      | \$1,080.00           |
- \*Cannot be used to exceed six-month statutory limit for response to an Official Action.
- ☒ A check in the amount of \$1,020.00 is enclosed.
- ☐ Charge Deposit Account No. 16-0605 for the extension fee.
- ☒ Charge Deposit Account No. 16-0605 for any fee deficiency.

Respectfully submitted,

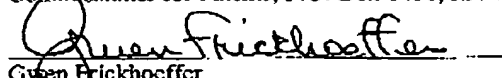


Brian J. Teaguc  
 Registration No. 55,670

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## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 26, 2005

  
 Gwen Frickhoeffter

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